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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 17 April 2000 from the Charge d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit, enclosed herewith,* the following Comments on the draft resolution on "The situation of human rights in the Federal Republic of Yugoslavia, Republic of Croatia and Bosnia and Herzegovina" circulated at the fifty-sixth session of the Commission on Human Rights, and the amendments to "The draft resolution on the situation of human rights in the Federal Republic of Yugoslavia, Republic of Croatia and Bosnia and Herzegovina"

I would like to ask you to have them published as official documents of the fifty-sixth session of the Commission on Human Rights under agenda item 9

(Signed) Branko BRANKOVIC
Ambassador
Chargé d'affaires a.i.

* The annex is reproduced as received, in English only

Annex

C O M M E N T S
on the draft resolution on "The situation of human rights in the FR of Yugoslavia, Republic of Croatia and Bosnia and Herzegovina" circulated at the 56th session of the UN Commission on Human Rights

- The entire text of the draft resolution should be rejected for its highly politicized contents and for the absence of any reference to the real human rights problems in the Kosovo and Metohija province in the period under consideration.

The USA as the leading country of the NATO Alliance, having committed an aggression and having violated the UN Charter, has no moral right to continue any action concerning human rights within the United Nations Organization.

Such a text serves the purposes of the USA and other sponsors to pardon themselves from the responsibility for massive and grave violations of human rights against helpless civilian population of the FRY during 78 days of carnage committed by NATO.

The USA having violated the Statute of the NATO by making aggression on the country which is not its member, as well as the Charter of the United Nations by bypassing the authority of the Security Council, has no right to teach a lesson to any country of how to respect its own constitution (the OP 18f). The draft resolution shows neither respect for the constitutional name nor for the territorial integrity of the FRY and the Republic of Serbia as evidenced in its title and a separate subtitle III on the Serbian province of Kosovo and Metohija).

- Member countries of the Commission on Human Rights are called upon to reject energetically the continued efforts of the US Administration to grant legitimacy by such resolutions to its unacceptable idea of having the right to choose governments of sovereign States and peoples(operative paragraph 14), requesting simultaneously in the same resolution the respect of democratic freedoms for the peoples of those States (operative paragraph 18b), including free elections (more frequent in the FRY in the course of the last ten years than in the United States itself).

- Member countries of the Commission are called on not to accept the sponsor's hypocrisy of invoking on the one hand the respect of the rule of law (operative paragraph 18b) while denying on the other hand the laws and legitimate decisions of the sovereign Yugoslavia when they do not fit into the US concepts and interests(OP 18d).

- The criticism of the alleged violations of the rights of ethnic minorities in the Republic of Serbia (paragraph 18e) should be rejected as untrue and therefore unjustified and politically motivated.

- With regard to the references to the International Criminal Tribunal (operative paragraphs 3e, 14-16 and Chapter VI),it is important to be reiterated that the Government of the FRY does not recognize the jurisdiction on its territory of that body.

The method of listing the names of individuals allegedly persecuted in the FR of Yugoslavia for "verbal crimes" (operative paragraphs 10 and 11) should also be rejected as biased. By such methods, the sponsor tries to conceal the real problems from the Commission members, most of whom have no opportunity to verify the

allegations or judge their merit in the light of the complexity of the overall situation. At the same time, there is no reference to massive and grave violations of human rights in the Kosovo and Metohija province committed since the deployment of the KFOR and UNMIK in June 1999(e.g. 933 killed and 860 missing).

- The operative paragraph 12 should be rejected since there is no basis for any negative allegation in relation to the status of ethnic minorities, least of all that it has worsened during the last year. In addition, there is no basis in the latest reports of the Special Rapporteur for such an allegation.

- Treating Serbs in the Serbian province of Kosovo and Metohija as a "minority group" (OP 24)is unconstitutional and therefore unacceptable. The FR of Yugoslavia will not allow that any remaining Serb and Montenegrin living in the territory of the FR of Yugoslavia and the Republic of Serbia be qualified as a member of ethnic or any other minority group. At the same time, the FR of Yugoslavia and the Republic of Serbia remain devoted to the respect of human rights of minorities on its territory, in accordance with the international standards and undertaken obligations.

- A separate subtitle III on Kosovo should be deleted and relevant paragraphs placed under the appropriate chapter on FRY.

It is also necessary to delete operative paragraph 23 which stands as a relic of the times when USA and NATO used the Commission on Human Rights and the United Nations in general for clearing the way for the upcoming aggression against the FR of Yugoslavia. This paragraph in no way reflects the situation on the ground between the two sessions of the Commission.

- With regard to the situation in Kosovo and Metohija, the Draft must be fully and consistently modified to the effect that it contains condemnation of grave and massive violations of human rights of Serbs, Montenegrins and other non-Albanian population committed since 12 June 1999. The member countries of the Commission should not allow the isolated, incomplete and unconvincing operative paragraph 24 to smoke-screen the fact that 350 000 non-Albanians have been driven out of Kosovo and Metohija during the last nine months of the "administration" of the United Nations in this Serbian province, as well as the fact that 860 people have been missing or abducted and that 933 people have been killed, while 250 000 foreigners were illegally admitted across the Yugoslav borders with Albania and FYRM. Among them there are bandits, smugglers, looters and killers. In that period 4,481 terrorists attacks were committed. Albanian terrorists have established and run the camps in the territory of Kosovo and Metohija. They have destroyed 50000 houses. Entire residential areas have been burnt down. The Serbian population has been completely ethnically cleansed in many regions of the Province. Private and State-run property has been looted, while the value of this property remains to be estimated. The cultural heritage of the Serbian people has been savagely destroyed. Priests were killed and nuns raped. 85 Orthodox monasteries and churches have been demolished or seriously damaged. 865 persons have been wounded. There is no source of information for the Serbs in the Province since all media outlets in their mother tongue have been closed and the property of these media outlets looted.

The mentioned examples cover the period between 12 June 1999 and 11 March 2000, i.e. as of the deployment of KFOR and UNMIK forces in the Province allegedly aimed at ending the violation of human rights by the Yugoslav authorities, establishing peace and order in Kosovo and Metohija and transforming the Province into a multi-ethnic, multi-confessional and multi-cultural region.

- Psychiatrists and medicals have already given their opinion about the immediate and long-term consequences of such a situation on the mental health of the displaced Serbs and others from Kosovo and Metohija, as well as of the Serbs remaining in the Province. They have also given their opinion about the consequences of the aggression on the entire traumatized population of the FR of Yugoslavia. They have spoken also about the effects on health of the use of the depleted uranium ammunition and the chemical weapons during the aggression against the FR of Yugoslavia.

On the basis of the above mentioned reasons, the operative paragraphs of this draft Resolution referring to Kosovo and Metohija and the FR of Yugoslavia must be completely modified and significantly amended in order to fully reflect the grave situation prevailing on the ground in the period under consideration.

- For the first time since the establishment of the institution of the Special Rapporteur for the Former Yugoslavia, the USA and some of its allies try to pave the way for the exemption of Croatia from the Special Rapporteur's mandate as of next year (operative paragraph 7). There is no ground for exempting Croatia from the mandate of the Special Rapporteur only on the basis of the fact that the current regime in Croatia is more to the liking of some of the sponsors than the previous one. It must remain under his mandate as long as satisfactory results are achieved in the field of human rights, including the return to Croatia of all refugees expelled from that country in the course of ethnic cleansing campaign, who are currently refuged in the FRY. In addition, the full and lasting conditions for their normal life and existence should be created by the newly elected Croatian Government. The mandate of the Special Rapporteur of the Commission for Human Rights for the situation of the human rights in Bosnia and Herzegovina, Croatia and the FR of Yugoslavia can and should be terminated when the time comes. It must not be narrowed under the influence of the political will of some countries. Moreover, the intention to exempt Croatia runs counter even to the concerns raised by the sponsor in the OP 3(f) of the Draft.

Amendments on "The draft resolution on the situation of human rights in the FRY, Republic of Croatia and BiH"

1. Change the title of the resolution into "Situation of human rights in BiH, the Republic of Croatia, and the FR of Yugoslavia" in order to bring it in line with the mandate of the Special Rapporteur as well as with the resolution of the 54th GA session on the same subject.

PREAMBLE:

2. Add new preamble paragraphs as follows:

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international instruments, including those in the field of human rights,

Gravely disturbed by the unprecedented and systematic campaign of terror, intimidation and ethnic cleansing of Serbs, Montenegrins and other non-Albanian population which is under way in Kosovo and Metohija province in the presence of the United Nations, after the deployment of KFOR and UNMIK,

Deeply concerned at the unabated violation of the rights of Serbs, Montenegrins and other non-Albanian population to life, housing, employment, freedom of movement, education and information at one's mother tongue, religion, fair trial, occurring on a daily basis in Kosovo and Metohija province,

Noting with grave concern the decisions and regulations of the UN Secretary-General Special Representative in Kosovo and Metohija province that run contrary to the Security Council resolution 1244 (1999),

Reaffirming the importance of ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues, as affirmed in the Vienna Declaration and Program of Action, adopted by the World Conference on Human Rights on 25 June 1993, (GA resolution 54/174),

Recognizing that the principles of national sovereignty and non-interference in the internal affairs of any State should be respected in the holding of elections, and that the electoral assistance to Member States should be provided by the United Nations at the request of interested States, (GA resolution 54/168),

Bearing in mind that the Federal Republic of Yugoslavia has been affected by the problems caused by refugee flows from Croatia and BIH and has a large number of internally displaced persons from the Kosovo and Metohija province, (modified pre. p. of GA resolution 54/96).

2. PP 3. - Delete "taking fully into account all relevant Security Council resolutions, and noting in particular UNSCR 1244 ,(GA 54/184)".

3. PP 3. - After "reaffirming" add " the sovereignty and".

OPERATIVE PART

4. Delete OP 2.

5. In OP 6. replace "deteriorating human rights situation of persons in the FR of Yugoslavia (Serbia and Montenegro)" by "situation of all refugees and displaced persons in the three countries of his mandate".

6. Delete OP 7.

7. In OP 9. replace "caused by the repressive policies and measures of the authorities of the Federal Republic of Yugoslavia and of Serbia" by "internal and external factors".

8. Delete OP 11. through 14.

9. In OP 18. replace " calls on" by "invites".

10. In OP 18(a) delete " Comply fully with its obligation".

11. Delete OP 18. (c) and OP 18. (d).

12. Delete the separate subtitle "III Kosovo" and renumber accordingly the remaining subtitles.

13. In OP 18. (e) replace the word "respect " by " keep under continued scrutiny the realization of".

14. In OP 18. (g) replace "Provide a full accounting for and protect the humanitarian and legal rights of the thousands of" by "Continue to provide information and allow the access of the concerned organizations and representatives to".

15. In OP 20. replace "Calls upon the authorities of the FRY as well as the UNMIK, KFOR and Kosovo Albanian representatives" by "Calls upon the UNMIK, KFOR, and Kosovo Albanian representatives, as well as the authorities of the FRY".

16. Add a new OP:

"Calls for immediate lifting of all collective and bilateral sanctions imposed upon the FR of Yugoslavia which represent a gross violation of human rights and cause massive human suffering of the entire population of the country, especially the vulnerable groups such as children, women, elderly and disabled";

17. In OP 21. replace "build a civil society and achieve" by " further promote".

18. Add a new OP:

"Reaffirms that any activities that attempt, directly or indirectly, to interfere in the free development of national electoral processes or that are intended to sway the results of such processes, violate the spirit and letter of the principles established in the Charter and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, (GA resolution 54/168);".

19. Replace OP 22. by:

"Expresses grave concern about the situation of 350 000 persons from Kosovo and Metohija province displaced since June 1999, mostly Serbs, Montenegrins and Roma".

20. Replace OP 23. by the following 3 new paragraphs:

"Expresses deep concern at the gravity and persistence of the massive violations of human rights in the Kosovo and Metohija province committed since the deployment of KFOR and UNMIK;",

" Notes with concern the figure of 350.000 IDP from Kosovo and Metohija in other parts of Serbia and close to three thousand executed, wounded and abducted persons, mostly Serbs, Montenegrins as well as Roma and other non-Albanians from the Province;",

"Urges the international security and civilian presence to create conditions for the safe return of all IDP from Kosovo and Metohija province at the earliest possible time and in a safe environment;".

21. In OP 24. replace "all ethnic groups" by "Albanian ethnic group" and delete the end of the paragraph reading "belonging to minority groups".

22. In OP 25. replace "by all parties" by "against the remaining Serbian population".

23. Add a new OP:

"Expresses grave concern at the systematic attacks upon religious places, sites and shrines of Serbs in the province and calls for the utmost efforts aimed at ensuring that remaining religious places, sites and shrines are fully respected and protected (GA resolution 54/159) by KFOR and UNMIK";

24. Merge OP 28. and OP 29. in order to read:

"Stresses the importance of the return to their homes of refugees and displaced persons in safety and dignity as a prerequisite for the enjoyment of all human rights and freedoms".

25. In OP 31. replace " welcomes" by "takes note".

26. Delete OP 32.

27. In OP 34. delete "to sustain this progress and".

28. In OP 34.(a) replace "Facilitating and encouraging " by "Enabling".

29. In OP 41. replace " Calls upon" by " Invites" and delete "especially the Government of the FRY to meet their obligations".